

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.2925 OF 2004

M/s.Lakdawala Developers Pvt. Ltd. ...Petitioners.

Versus

Mumbai Building Repairs and
Reconstruction Board & Ors. ...Respondents.

.....

Mr.D. H. Mehta with Mr. Rajiv Narula i/b. M/s. Jhangiani Narula &
Asso. for the Petitioners.

Mr. Sarang Khanzod i/b. M. V. Kini & Co. for Respondent No.1.

.....

CORAM : DALVEER BHANDARI, C.J. &

DR. D.Y. CHANDRACHUD, J.

November 1, 2004.

P.C.:

The Petitioners claim to be the landlords of a cessed building comprising of ground and three upper floors which have been developed under a Scheme of Reconstruction approved by the First Respondent. According to the Petitioners, they acquired title to the property by a Deed of Conveyance dated 20th August 2002 and on

2nd July 2003 submitted a proposal to the First Respondent for reconstruction of the building. The First Respondent is stated to have granted its No Objection Certificate on 9th May 2003. The Petitioners have stated that between June and September 2003, all the tenants and occupants save and except Respondent Nos.4 and 5 to 7 shifted to temporary alternate accommodation in a transit camp. The Municipal Corporation is stated to have sanctioned building plans on 18th June 2004 by granting an IOD. On 8th July 2004, the Petitioners wrote to the Second Respondent seeking to initiate action under Section 95A of the Maharashtra Housing and Area Development Act, 1976, to summarily evict Respondent Nos.4 and 5 to 7. The upper floors of the building are stated to have been demolished. The Petitioners have stated that on 23rd July 2004, they have written to the Second Respondent agreeing to provide temporary alternate accommodation to Respondent Nos.4 and 5 to 7. The aforesaid Respondents thereupon moved the Court of Small Causes in a declaratory suit wherein it has been stated that the Petitioners were restrained from dispossessing them without due process of law. This petition has been filed since it is the grievance of the Petitioners that

despite a letter dated 23rd August 2004, the First Respondent has failed to take recourse to its powers to evict the aforesaid Respondents under Section 95A of the Maharashtra Housing and Area Development Act, 1976.

During the course of the hearing, Counsel appearing on behalf of the Petitioners has stated that the Petitioners are willing to provide to Respondent Nos.4 and 5 to 7 transit accommodation and permanent alternate accommodation in accordance with their eligibility as certified by the Competent Authority. Counsel appearing on behalf of Respondent Nos.4 to 7 has stated that the aforesaid Respondents do not seek to obstruct the implementation of the scheme and are only concerned with the provision of the required transit and permanent alternate accommodation in accordance with their eligibility as certified. We, therefore, dispose of this petition taking the assurance of the Counsel appearing on behalf of the Petitioners on the record. The First Respondent shall take steps to ensure that the transit and permanent accommodation as required is made available to Respondent Nos.4 and 5 to 7. In the event that the

aforesaid Respondents do not co-operate despite the provision of requisite accommodation – transit and/or permanent- the First Respondent would be at liberty to consider the representation of the Petitioners for taking necessary steps in accordance with law. The petition is accordingly disposed of.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.